THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 9940 OF 1997

DATED: 12-07-2006

BETWEEN:

D.V. Krishnaiah
S/o. Late D. Ramaswamy

… Petitioner

And

1. Member Secretary, Andhra Pradesh
State Electricity Board, Vidyuth Soudha,
Somajiguda, Hyderabad and another

…Respondents

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITON NO. 9940 OF 1997

ORDER:

Petitioner filed this writ petition seeking to issue a writ of Mandamus declaring the order of the 2nd respondent passed in Memo No.SE/O/NLR/ESTT/C.1/D.No.361/97 dated 21-04-1997 as illegal and arbitrary and consequently direct the respondents to continue the petitioner as U.D.C.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the record.

It is the case of the petitioner that he was initially appointed as typist on 05-03-1970 in the office of the Superintendent Engineer, Operation Circle, Nellore, and thereafter, he was transferred to the office of the Divisional Engineer, Nellore and promoted temporarily to the post of U.D.C. under regulation 41 of A.P.S.E. Board Service Regulation Scheme vide proceedings in Memo No. SE/O/NLR/Estt./ C.1/D.No.527/96 dated 19-06-1996.

A perusal of the said proceedings goes to show that the petitioner along with some others were temporarily promoted from the post of typist to the post of U.D.C. by relaxing the Regulation 15 of A.P.S.E. Board Service Regulations Part-III from passing the requisite departmental test. It is also made clear that the said promotion is purely temporary and liable to be terminated at any time.

In the meanwhile, the qualified persons questioned the general regulation made in B.P.Ms.No. 664 dated 05-08-1981 and the Division Bench of this Court set aside the said order of the respondent. As per the said B.P.Ms.No.664, the relaxation was made exempting the passing of the test prescribed in the A.P. State Electricity Board Service Regulations in respect of L.D.Cs/Typists/Steno Typists and U.D.Cs., who have record of service and completed 15 years of service in the same post. As against the said Division Bench judgment, the matter was carried to the Supreme Court by the unqualified persons and the Supreme Court in S.L.P.No. 180-181/1984 by order dated 27-06-1996 while upholding the relaxation made in the said particular case granted to the appellants by the Board in the year 1981, did not uphold the orders of the Board in relaxing the passing of the prescribed test after 1981.

Learned counsel for the petitioner submitted that the case of the petitioner was considered and passing of the prescribed test was relaxed in exercise of powers under Regulation 41 by the Board and therefore, the petitioner is entitled to continue in the promotion post and the impugned order passed by the second respondent vide memo dated 21-04-1997 is illegal and unsustainable.

Either the promotion order or the impugned order does not indicate that the individual case of the petitioner was considered and relaxed under regulation 41. After the disposal of the Supreme Court case only, the promotion was made. The Supreme Court disposed of

the said S.L.P. on 27-02-1996, whereas the temporary promotion of the petitioner was made on 19-06-1996. In fact, during the pendency of the case before the Supreme Court, interim direction was given to effect the promotions subject to the result of the appeal pending before the Supreme Court. Pursuant to the interim direction certain promotions were made with a specific condition that those promotions will be subject to the result of the appeal pending before the Supreme Court.

None appeared for the respondents and no counter has been filed.

As the Supreme Court while upholding the relaxation made in the said particular case granted to the appellants therein, did not uphold the orders of the Board in relaxing the passing of prescribed test after 1981, I am not persuaded to uphold the contentions of the learned counsel for the petitioner that his case was specifically considered under regulation 41 and therefore he is entitled to continue the promotion and therefore, I do not see any infirmity legal or otherwise in the impugned order.

Writ petition is accordingly dismissed. No costs.

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V. ESWARAIAH, J.

Dated: 12-07-2006
RNS